

REMARKS

Claims 1, 21 and 30 have been amended by including limitations previously present in claim 27, which has been cancelled. Claims 31 and 51 have been amended by including limitations previously present in claim 57, which has been cancelled. Claims 1, 21, 31 and 51 have been amended by removing the limitation added in the previous amendment. No new matter has been added.

Rejections Under 35 U.S.C. §112, first paragraph (written description)

The Examiner rejected claims 1, 4-12, 15-20, 30, 31, 34-42, and 45-50 for failure to meet the written description requirement. The Examiner argued that the phrase "a single bond between carbons except for" defined a new subgenus not supported by the specification. Applicants disagree and maintain that the embodiments disclosed exactly such compounds. However, to further prosecution, Applicants have amended the claims to remove the phrase "a single bond between carbons except for".

Rejections Under 35 U.S.C. §112, second paragraph

The Examiner rejected claims 1, 4-12, 15-20, 30, 31, 34-42, and 45-50 as indefinite. The Examiner argued that the phrase "a single bond between carbons except for" render the claims indefinite. Applicants disagree and maintain that the claims are definite. However, to further prosecution, Applicants have amended the claims to remove the phrase "a single bond between carbons except for".

Rejections Under 35 U.S.C. §102(e)

The rejected claims 1, 4-6, 9-12, 15, 16, 23, 25, 31, 34-36, 39-42, 45, 46, 48-51, 53, 55, 60 and 62 as anticipated by U.S. Patent No. 6,544,929.

Applicants have amended the claims to specify that the composition contains aldicarb, oxamyl, fenamiphos, fosthiazate or metam sodium, all of which are nematocides. These claims are not anticipated by U.S. Patent No. 6,544,929. Moreover, it would not be obvious to modify

the composition of U.S. Patent No. 6,544,929 to include a nematicide. This is because the compositions of U.S. Patent No. 6,544,929 relates to "herbicidal compositions comprising isoxaflutole, glyphosate or glufosinate herbicide". These are all non-selective herbicide that are phytotoxic. Since the compositions are intended to kill plants, there would be no reason to modify the compositions by adding nematicide that is designed to protect plants.

Rejections Under 35 U.S.C. §103

The Examiner rejected claims 1, 4-12, 15, 16, 18-23, 25-31, 34-42, 45, 46, 48-53 and 55-66 as obvious in view of JP 59-27802 taken with Farm Chemicals Handbook 1998.

Applicants have amended the claims to specify that the composition contains aldicarb, oxamyl, fenamiphos, fosthiazate or metam sodium, all of which are nematicides. These claims are not suggested by the combination of references. Moreover, it would not be obvious to modify the composition of JP 59-27802 to include a nematicide.

Obviousness-Type Double Patenting

The Examiner rejected claims 1, 4-12, 15-31, 33-42, 45-74 for obviousness-type patenting in view of U.S. Patent No. 6,887,900. The Examiner rejected claims 1, 4-12, 15-31, 33-42, 45-74 for obviousness-type patenting in view of U.S. Patent No. 6,903,052.

Applicants have amended the claims to include nematicidal agents not present in the claims of the cited patents. Upon notification that there is allowable subject matter in the present claims, Applicants will file an appropriate terminal disclaimer, if warranted.

Conclusion

Applicants respectfully request that all rejections be withdrawn and that the claims be allowed.

Enclosed is a Petition for Extension of Time and a Notice of Appeal with the appropriate fees. Please apply any other charges or credits to deposit account 06-1050.

Applicant : Deryck J. Williams et al.
Serial No. : 10/655,165
Filed : September 4, 2003
Page : 15 of 15

Attorney's Docket No.: 12557-021001

Respectfully submitted,

Date: 21 September 2007

/Anita L. Meiklejohn/
Anita L. Meiklejohn, Ph.D.
Reg. No. 35,283

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

12557-021resp (2).doc